



COLORADO

**Department of
Regulatory Agencies**

Colorado Civil Rights Division



ANNUAL REPORT 2023

<http://ccrd.colorado.gov>

Hon. Jared Polis, Governor

Patty Salazar, Executive Director, Department of Regulatory Agencies

Aubrey Elenis, Director, Colorado Civil Rights Division

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COLORADO CIVIL RIGHTS DIVISION DIRECTOR

Aubrey Elenis, Esq.



Dear Coloradans:

I am honored to share the Colorado Civil Rights Division (CCRD) and Colorado Civil Rights Commission (CCRC) Annual Report for the 2022-2023 fiscal year.

As Director, I am charged with overseeing the day-to-day operations of the Colorado Civil Rights Division, which is charged with enforcing Colorado's anti-discrimination laws in the areas of employment (Colorado Revised Statutes § 24-34-402), housing (Colorado Revised Statutes §24-34-502), and places of public accommodation (Colorado Revised Statutes § 24-34-602). CCRD investigates complaints of discrimination in the areas of employment, housing, and places of public accommodation based on an individual's protected class status, such as sex, disability, sexual orientation, race, color, religion, national origin, age, or marital status to ensure a Colorado for all.

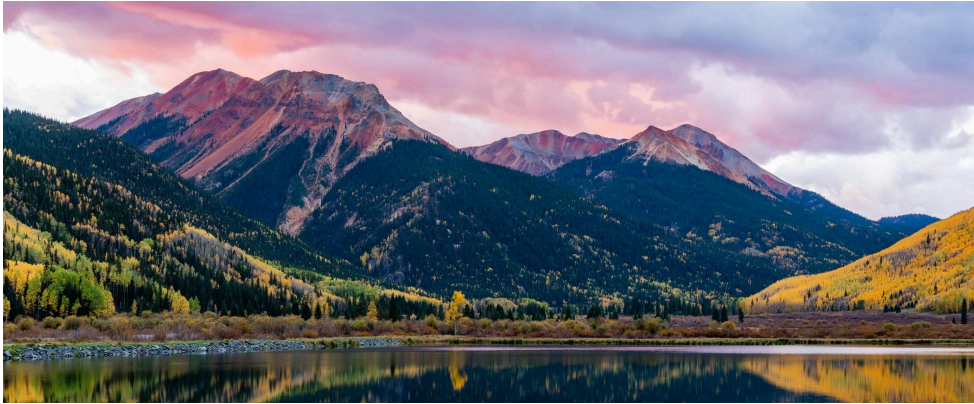
CCRD works in cooperation with federal and local agencies, such as the U.S. Equal Employment Opportunity Commission (EEOC) and the U.S. Department of Housing and Urban Development/Office of Fair Housing and Equal Opportunity (HUD/FHEO), as well as community-based organizations that promote and protect civil rights. We continually invite partnerships with community organizations across the state to provide outreach and education to expand awareness about the rights and responsibilities of individuals, businesses, and organizations as defined in the Colorado Anti-Discrimination Act (CADA).

To learn more about the Division and Commission beyond what is shared in this annual report, we encourage you to visit our new website: ccrd.colorado.gov.

Regards,

A handwritten signature in blue ink, appearing to read "Aubrey Elenis".

Aubrey Elenis, Director
Colorado Civil Rights Division



CCRC & CCRD Overview

Working Together to Help Serve Coloradans

The Colorado Civil Rights Division (CCRD) is charged with enforcement of the Colorado Anti-Discrimination Act (CADA). CADA prohibits discrimination based on protected class in employment, housing, and places of public accommodation. The CCRD enforces CADA primarily through investigating complaints of discrimination, but also through mediation and education.

Civil Rights Commission

The Colorado Civil Rights Commission (Commission or CCRC) is a seven-member, bipartisan panel appointed by the Governor of Colorado pursuant to the Colorado Anti-Discrimination Act (CADA) C.R.S. § 24-34-303. As defined by state law, the Commission is composed of members representing various political parties, the community at large, businesses, representatives from labor organizations, and groups historically marginalized and discriminated against. The members come from regions across the State of Colorado.

Functions of the CCRC

The work of the Commission is initiated following the Division's investigative process, which is further described below. The Commission reviews appeals of cases investigated and dismissed by the Civil Rights Division; reaches out to various communities to provide awareness of civil rights issues and protections; conducts hearings involving illegal discriminatory practices; initiates investigations regarding discrimination issues with broad public policy implications; is available to advise the Governor and General Assembly regarding policies and legislation that address discrimination; and adopts and amends rules and regulations that provide standards and guidelines regarding the State statutes prohibiting discrimination.

COLORADO CIVIL RIGHTS COMMISSION

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COLORADO CIVIL RIGHTS COMMISSIONERS



GETA ASFAW



**SERGIO RADUEL
CORDOVA**



CHARLES GARCIA



MAYUKO FIEWEGER



RICHARD LEWIS



**CHERYLIN
PENNISTON**



JEREMY ROSS



DANIEL WARD

<https://www.colorado.gov/governor/boards-commissions>

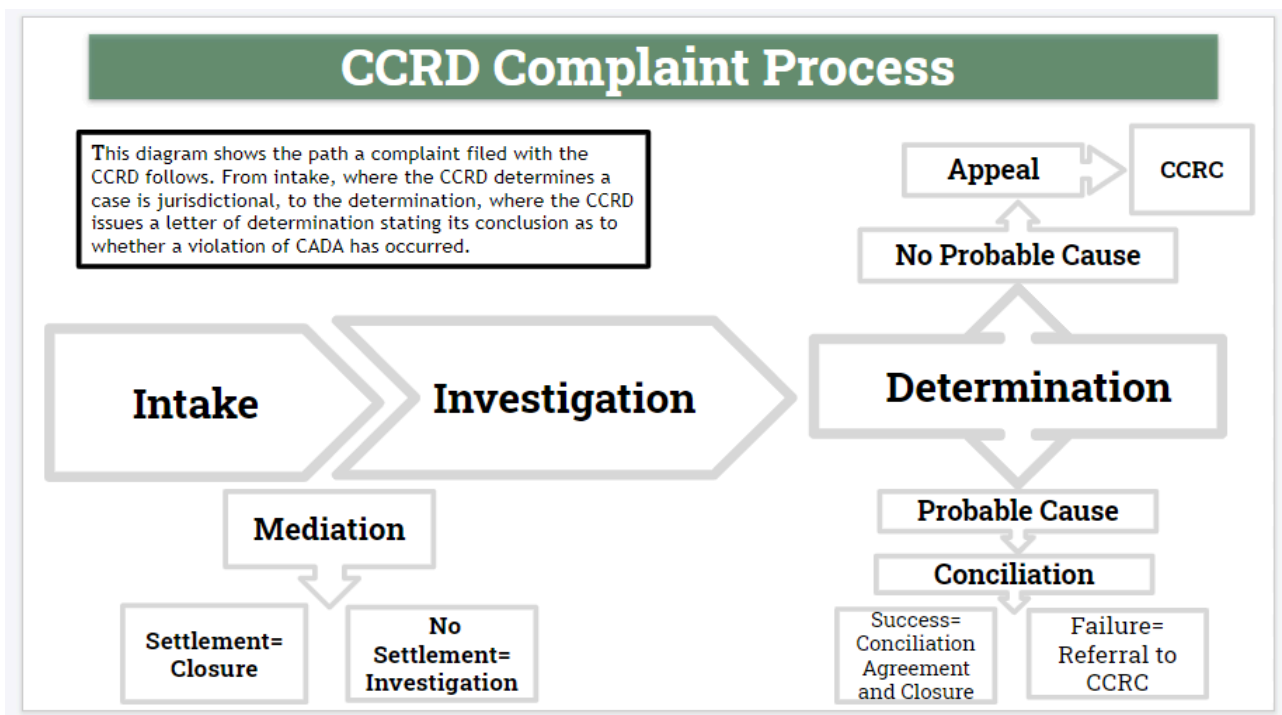
Civil Rights Division

The Colorado Civil Rights Division (Division or CCRD) is a neutral, fact-finding, administrative agency that provides civil rights education to the community, provides mediation and alternative dispute resolution services to resolve civil rights claims, and conducts investigations of charges of discrimination alleging violations of the Colorado Anti-Discrimination Act in the areas of employment, housing, and in places of public accommodation.

CCRD Investigative Process

After a complaint is filed, an investigation is initiated. During the investigation, the Division collects documentary evidence, witness interviews, affidavits, comparative information, and any other evidence relevant to the complaint. Once the investigation is completed, the Division Director or her designee decides whether sufficient evidence exists to support the allegations of discrimination.

If the decision is that no discrimination occurred, a Complainant may appeal to the Commission. If the Division finds that discrimination occurred, the statute requires that the Division attempt to settle the matter with the parties through a mandatory mediation conference called conciliation. If conciliation is unsuccessful, the Commission determines whether to set the case for an adjudicatory administrative hearing.



ALTERNATIVE DISPUTE RESOLUTION (ADR)

The Division offers Alternative Dispute Resolution (ADR) as a time and cost savings alternative to investigation and litigation.

This mediation program is voluntary and provided at no cost to the parties. The process benefits the parties by allowing open discussion and resolution before initiating the Division's investigative process. During the Division's ADR process, a formal meeting is held with the parties. A Division mediator acts as a neutral intermediary to assist the parties in reaching a settlement. As previously discussed, the ADR unit also conducts compulsory mediation (conciliation) as required by statute after probable cause is found in a case.

ADR Mediations and Conciliations Completed

	MEDIATIONS			CONCILIATIONS			TOTAL		
	TOTAL	SETTLED	VALUE	TOTAL	SETTLED	VALUE	ADR	SETTLED	VALUE
FY 22-23	224	117	\$2,124,444	57	20	\$542,151	281	137	\$2,666,595

CASES COMPLETED

Cases are closed under a number of circumstances, including probable cause/no probable cause finding, successful mediation, closed following hearing, lack of jurisdiction, right to sue issued, and withdrawal or administrative closure. The following chart demonstrates the number of cases that the Division closed in the fiscal year 2022-2023.

AREA OF JURISDICTION	FY 22-23				
FINDING	Probable Cause	No Probable Cause	Mixed Probable Cause	No Jurisdiction	Administrative Closures
EMPLOYMENT	23	474	11	17	741
HOUSING	13	112	3	0	25
PUBLIC ACCOMMODATIONS	9	116	0	0	33
Totals	45	702	14	17	799

APPEALS

Complainants may appeal a no probable cause decision to the Commission within ten days. Commission members will affirm and attest that, while reviewing and considering the matters on appeal, that they considered all the factors necessary to make a determination on the appeals before them. The following are the number of appeals filed with the Commission for fiscal year 2022-2023.

FISCAL YEAR	EMPLOYMENT	HOUSING	PUBLIC ACCOMMODATIONS	TOTAL
FY 22-23	62	14	15	91

OUTREACH AND EDUCATION

Through its outreach and education program, the Division raises public awareness of civil rights issues and knowledge of laws prohibiting discrimination in employment, housing, and places of public accommodations in Colorado.

In Fiscal Year 2022-2023, the CCRD continued a robust schedule of outreach and education by offering monthly training webinars for each case type. Training on anti-discrimination laws throughout the State of Colorado was made more accessible by offering digital courses to participants from the Front Range, the Western Slope, and the Eastern Plains. These classes provided a general overview of CCRD, CADA, and the investigative process.

In June 2023, CCRD 101 public webinars regarding specific protected classes were offered, including CCRD 101: Based on Race/Color, CCRD 101: Based on Disability (Mental/Physical), and CCRD 101: Based on Sexual Orientation/Gender Identity/Gender Expression. We will continue to create additional webinars during the upcoming fiscal year.

Training and Outreach Events throughout Colorado

FISCAL YEAR	TRAININGS	TRAININGS AS PART OF A SETTLEMENT	OUTREACH EVENTS	TOTAL
FY 22-23	82	65	209	356

OUTREACH AND EDUCATION

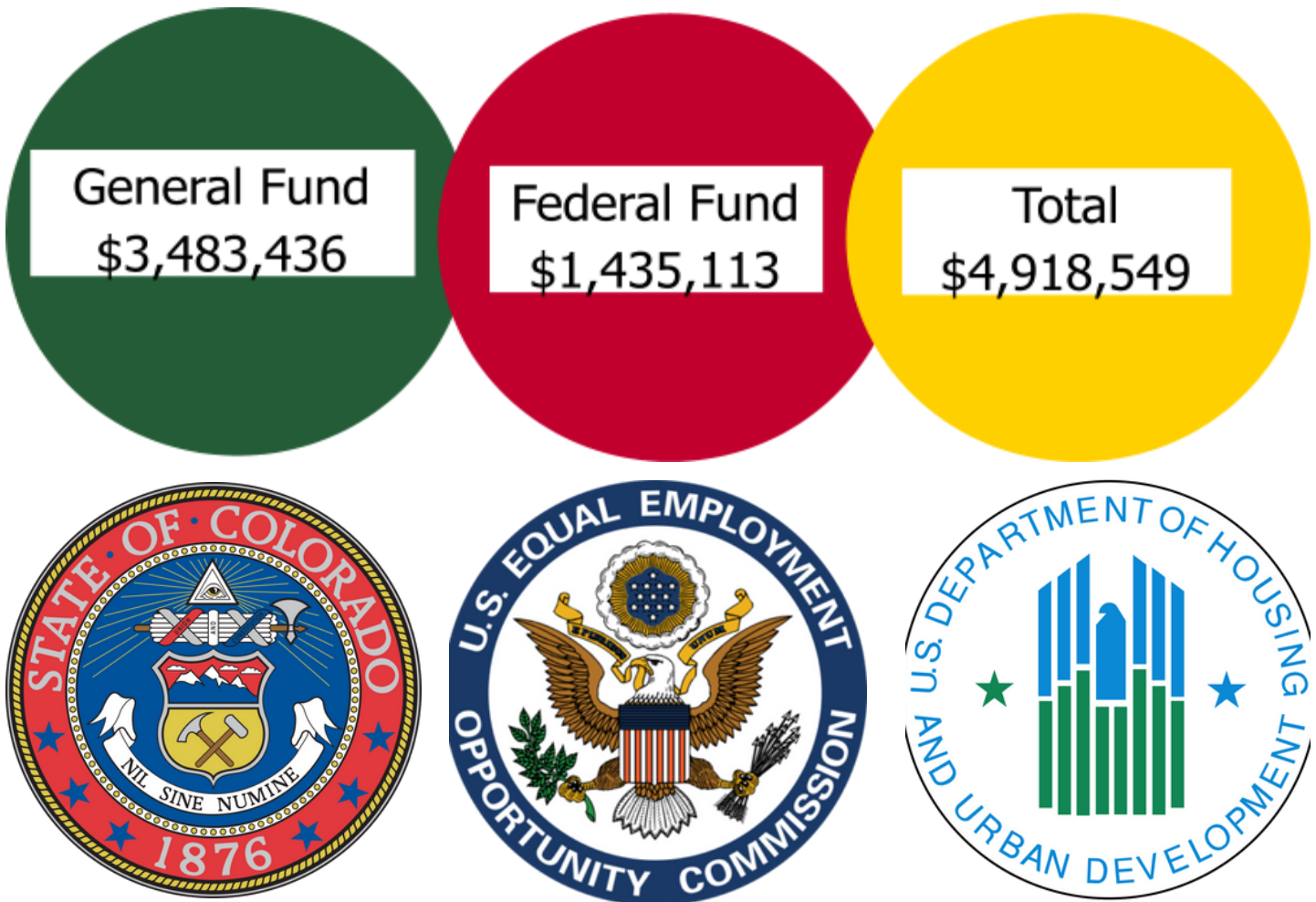
The Outreach and Education team created and published an instructional video on creating an online intake inquiry. This video on our website highlights step-by-step instructions for the user to follow when filing an intake inquiry. Additionally, the Division has partnered with other organizations to provide outreach and education and leveraged valuable resources by working with various organizations, including local governments, academic institutions, non-profit organizations, and other government agencies. Alongside federal EEOC partners, the division participated in various community events, such as Denver Pride, Juneteenth, the Colorado Dragon Boat Festival, and the Westwood Chile Fest.

With support from our HUD partners, we created multi-media packages to further educate the public about housing discrimination, such as radio advertisements, television commercials, e-newsletters, social media postings, public transit videos, and bus queen advertising.



BUDGET FY 22-23

The Civil Rights Division is partially funded by the State of Colorado's General Fund. Contractual agreements with the U.S. Department of Housing and Urban Development and the U.S. Equal Employment Opportunity Commission also support the Division's work. Under the agreements, when Colorado and the federal government share jurisdiction, the Division conducts investigations on behalf of the federal government, avoiding duplicative effort and allowing for a more efficient and effective use of resources.



ENFORCEMENT

PROTECTED CLASSES IN COLORADO

Cases are filed with the Division by Complainants alleging discrimination based on a protected class. A 'protected class' is a designation provided to groups sharing a common characteristic that legally protects them from discrimination based on that characteristic. The Colorado Anti-Discrimination law falls under Title 24 of the Colorado Revised Statutes.

Age (40+) *	Marital Status	Retaliation
Ancestry	Marriage to a Coworker*	Sex
Color	National Origin	Sexual Orientation
Creed	Pregnancy *	Gender
Disability	Race	Identity/Expression
Familial Status(includes pregnancy) **	Religion ***	Source Of Income**
		Veteran/Military Status**

*Employment Only

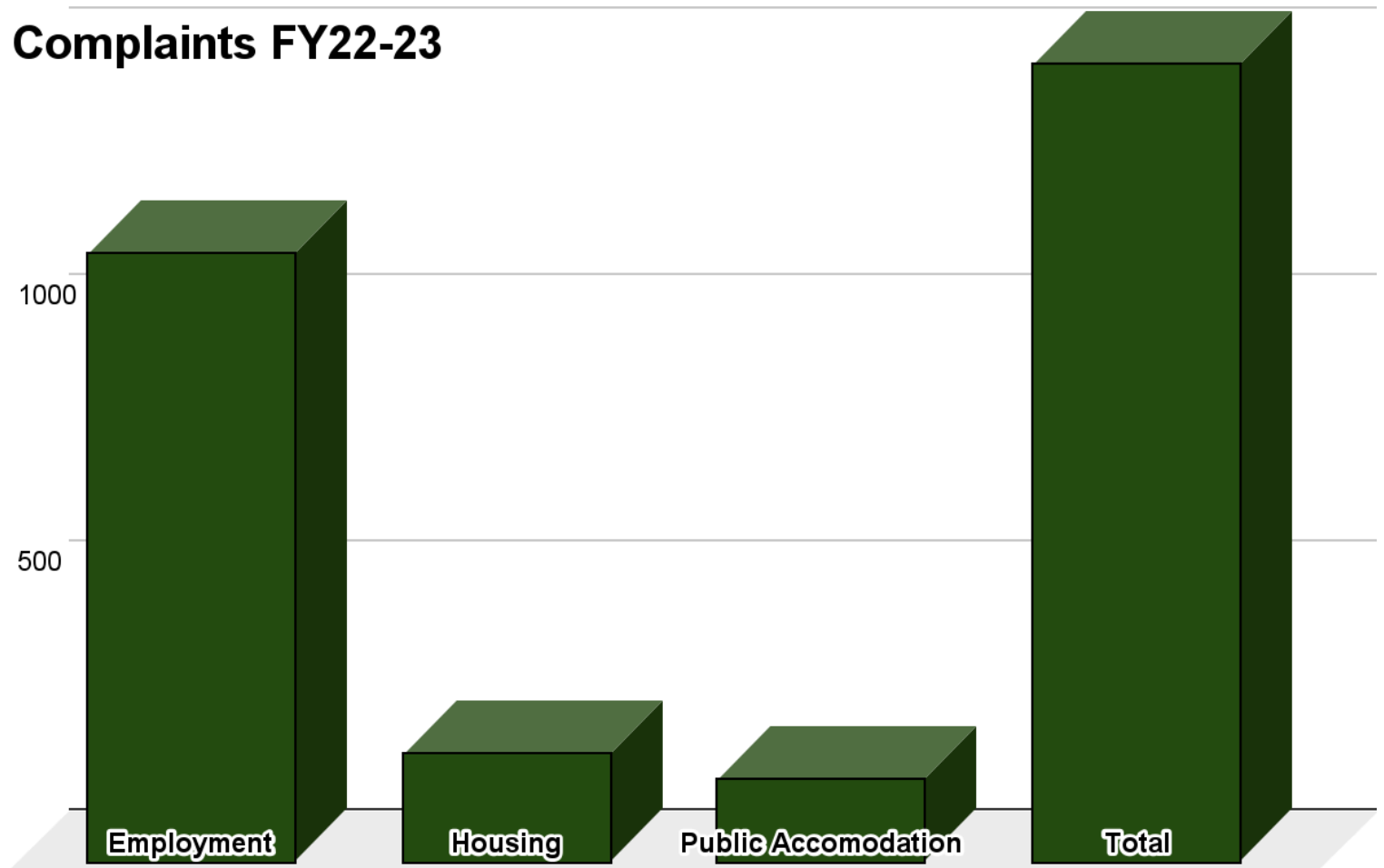
** Housing Only

***Employment and Housing Only

Complaints Filed with CCRD by Fiscal Year and Case Type

Fiscal Year	Employment Charges Filed	Housing Charges Filed	Public Accommodations Charges Filed	Total Charges Filed
FY 22-23	1137	202	153	1492

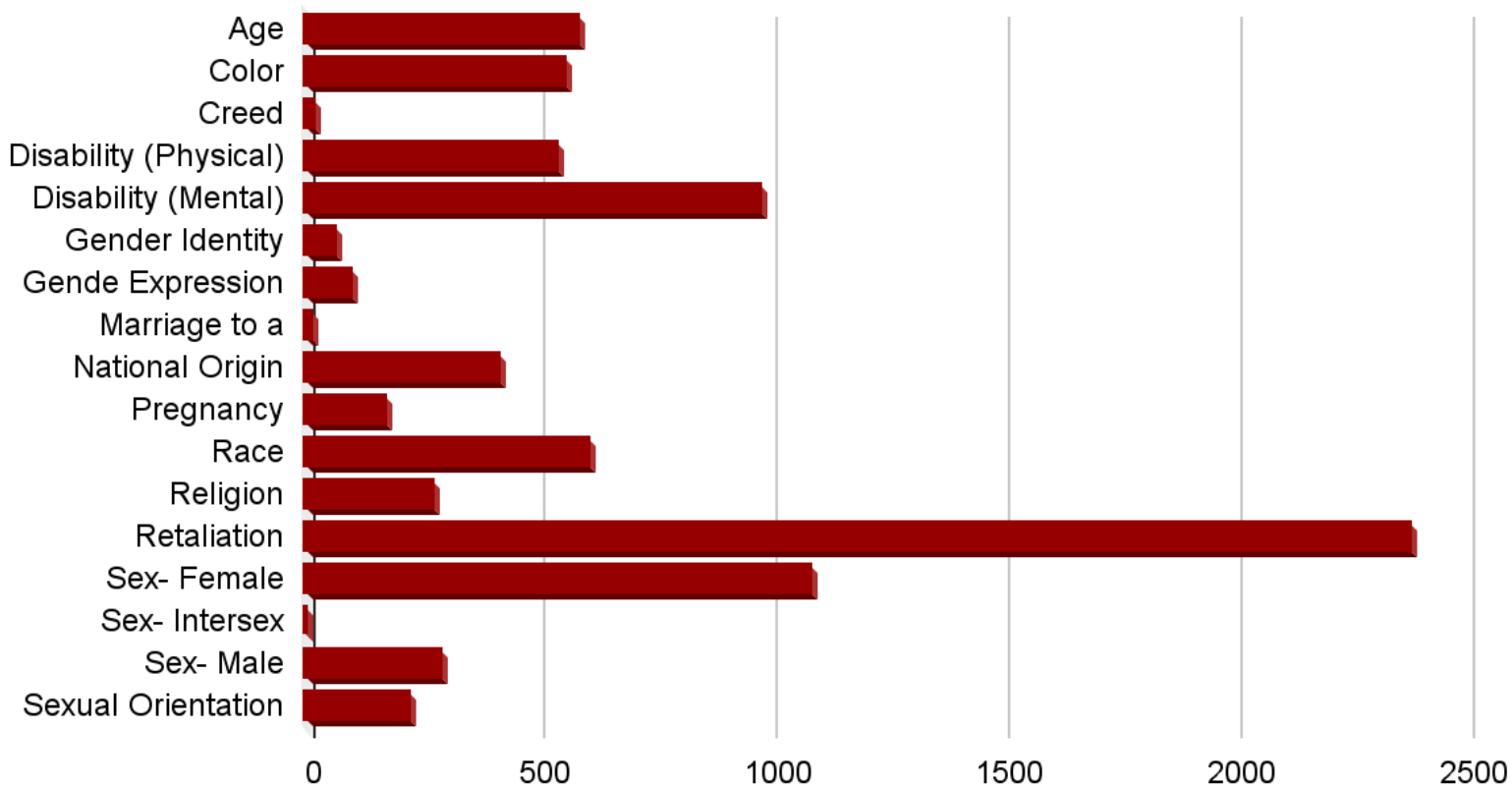
Complaints FY22-23



Employment Discrimination

Cases filed in FY 2023: Based on Protected Class

Employment Cases






SIGNIFICANT EMPLOYMENT CASES



The Division issued a mixed probable cause finding in a case in which a Complainant was harassed, denied equal terms and conditions of employment, suspended, and constructively discharged based on her age, disability, sex, and/or in retaliation for engaging in protected activity.

The Complainant was subjected to multiple instances of harassment by a supervisor while simultaneously having unequal terms and conditions imposed upon her. The Complainant was subsequently suspended in retaliation for engaging in protected activity and was ultimately constructively discharged based on her protected classes. After the determination was issued in this case, the parties participated in conciliation, which was unsuccessful, and the Complainant was subsequently issued a Notice of Right to Sue.



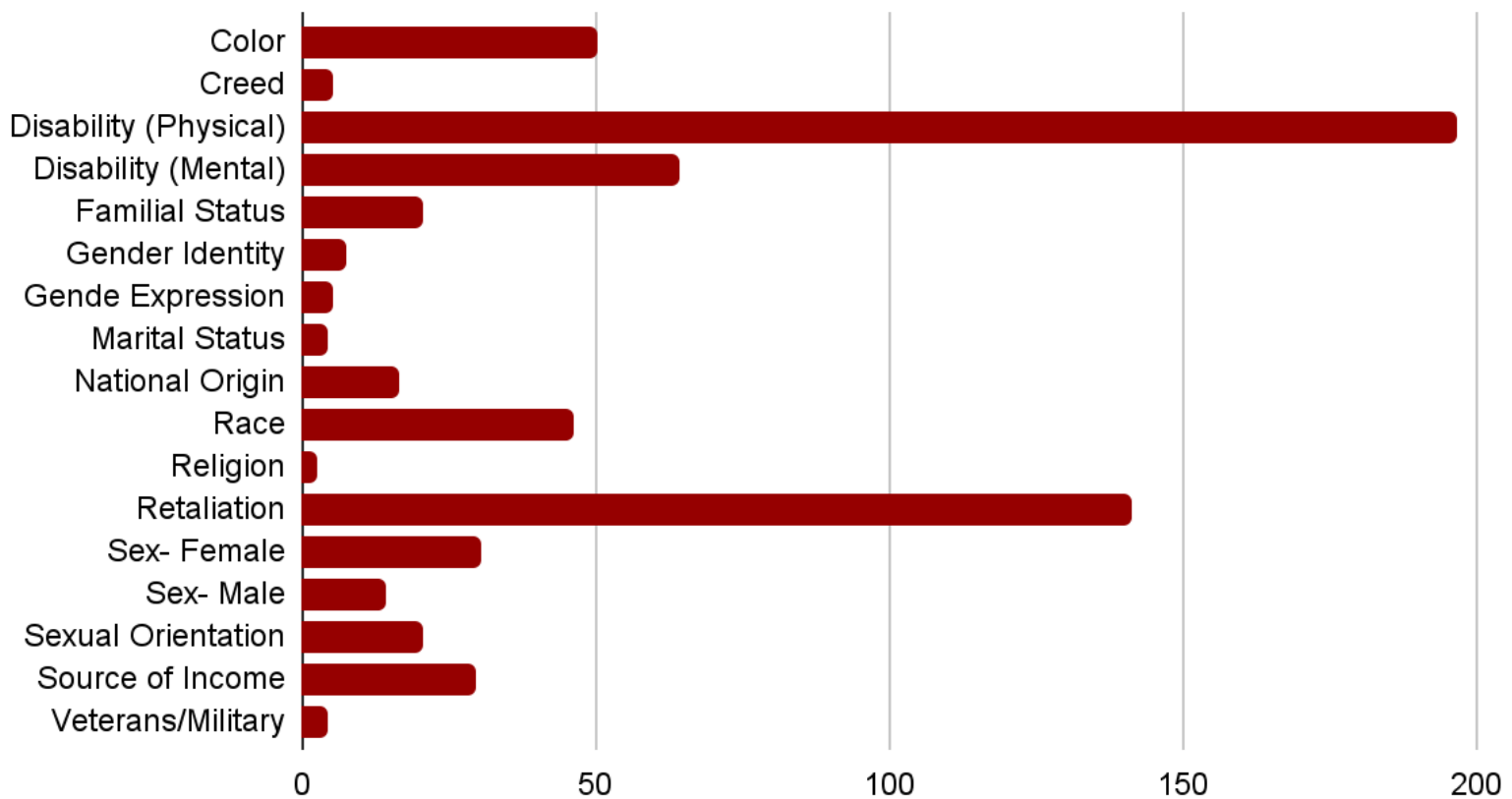
In another case, the Division issued a probable cause finding in a case in which a Complainant was subjected to association discrimination and discharged from her job based on her association with members of a protected class and/or in retaliation for engaging in protected activity. In this case, the Complainant was associated with members of protected classes (people of color and people from the LGBTQ+ community) through the performance of her job duties when she offered and led programs that advocated for youth of color and LGBTQ+ youth.

The Complainant was discharged based on her association with members of protected classes and/or in retaliation for engaging in protected activity. Although the Respondent asserted that the Complainant was not performing satisfactorily, the evidence demonstrated that the Complainant was warned and ultimately discharged for pretextual and/or unsubstantiated reasons. After the determination was issued, the parties participated in conciliation, which was unsuccessful. The Colorado Civil Rights Commission set this matter for public hearing. A settlement agreement was subsequently reached.

Housing Discrimination

Cases filed in FY 2023: Based on Protected Class

Housing Cases



SIGNIFICANT HOUSING CASES

The Complainant alleged failure to rent based on familial status and source of income, a new protected class recently added to CADA. The Complainant is a certified foster parent. The Division's investigation confirmed that the Respondent stated that they viewed being a foster parent as "running a business" and were concerned about the liability of having "unattended children at the subject property." Furthermore, the Respondent refused to count

any prospective income that the Complainant may have garnered from fostering child(ren) towards the monthly income requirements for rental at the subject property. The Respondents did not deny that they made these statements or that they denied the Complainant rental because of her source of income and familial status. Following our probable cause finding, the Division was able to successfully conciliate the case through its ADR unit. "Source of Income" is defined as any source of money paid directly, indirectly, or on behalf of a person, including income from any lawful profession or from any government or private assistance, grant, or loan program."



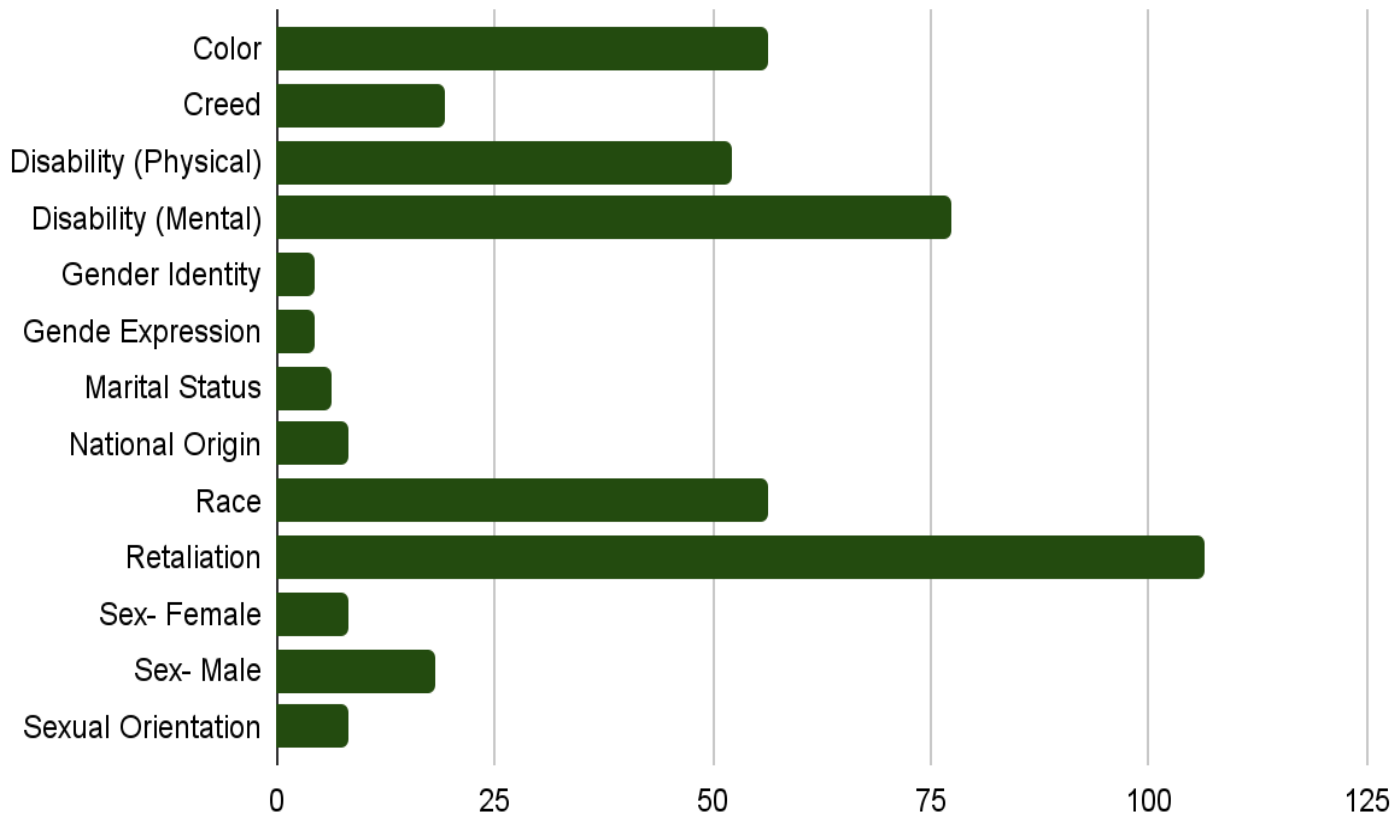
In another housing case, the Complainant filed a complaint against the Respondent alleging refusal to provide an accommodation and unequal terms and conditions of housing due to his disability. Specifically, the Complainant requested a reasonable accommodation for an emotional support animal (ESA), a dog. The Respondent is a nationwide housing provider, operates in 15 states, and manages over 100,000 rental units. As such, they had developed a centralized process for reasonable accommodation to streamline and standardize the process across all of its properties.

The Division's investigation found that the Respondents required the Complainant to complete a specific form when requesting the accommodation for the ESA. The form also asked the Complainant and their health care provider to disclose information regarding the Complainant's disability which was not necessary for the Respondent to know in order to approve or deny the accommodation request. Instead of completing the form, the Complainant provided the Respondent with two separate letters from his healthcare provider regarding his need for an ESA. Because the Respondent's specific form was not completed, the Complainant's accommodation request was denied. The Division found that discrimination occurred because a housing provider cannot require a requestor to utilize a specific form to make an accommodation request. Following the Division's probable cause finding, the case was set for an administrative hearing in front of an Administrative Law Judge at the Office of Administrative Courts.

Discrimination in Places of Public Accommodation

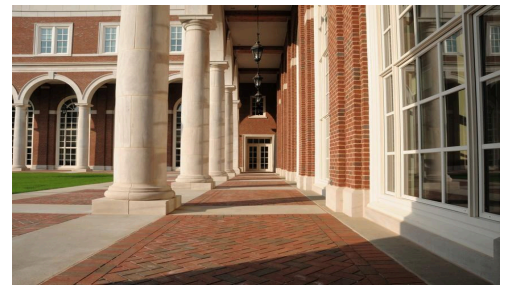
Cases filed in FY 2023: Based on Protected Class

Public Accommodations



SIGNIFICANT PUBLIC ACCOMMODATIONS CASES

The Division issued a probable cause finding in a case in which the Complainant was denied the full and equal enjoyment of the Respondent's place of public accommodation based on his creed (Christian beliefs) when his request for a religious accommodation to be exempt from the COVID-19 vaccination requirement was denied and he was forced to withdraw from his course of study at the Respondent's university. The Respondent denied his request and determined that the Complainant merely had a personal objection to the vaccine. The Division found that the Complainant was discriminatorily denied the full and equal enjoyment of the Respondent's place of public accommodation. After the determination was issued, the parties participated in conciliation, which was unsuccessful.



The Division issued a probable cause finding in a case in which a Complainant was denied the full and equal enjoyment of the Respondent's place of public accommodation based on her race/color. Shortly after the Complainant arrived at the Respondent's dining establishment, the Respondent's manager informed them that it had received reports from employees that the Complainant had walked out on their bill during previous visits, and requested payment upfront. The Division's investigation determined that the Respondent's actions gave rise to an inference of unlawful discrimination based on the Complainant's race/color, and the Respondent's refusal to provide her with the goods, services, benefits, or privileges she sought. After the determination was issued in this case, the parties participated in conciliation, which was unsuccessful, and the Complainant was subsequently issued a Notice of a Right to Sue.



HISTORY OF CIVIL RIGHTS IN COLORADO

1876

The Colorado Constitution was ratified after 100 Black men demanded and were given the right to vote.

1893

1895

The Colorado General Assembly passed the Public Accommodations Act prohibiting discrimination on the basis of race or color.

1917

Discriminatory advertising was added to the prohibitions contained in the 1895 Public Accommodations Act.

1951

The General Assembly passed the Colorado Anti-Discrimination Act creating the Fair Employment Practices Division, attached to the state's Industrial Commission, forerunner of the Colorado Department of Labor and Employment. The Division's mission was to research and provide education regarding employment discrimination and conduct hearings regarding job discrimination cases involving public employers; however, the agency was given no compliance or enforcement powers.

1955

Lawmakers gave the agency independence when they renamed it the Colorado Anti-Discrimination Commission, detached it from the Industrial Commission, and gave it enforcement authority over public agencies.

1957

The General Assembly repealed an existing statute that prohibited interracial marriage and made the Commission a full-fledged agency when they added private employers with six or more employees to its jurisdiction, and charged the Commission with enforcing the 1895 Public Accommodations Act.

1959

Colorado passed the nation's first state fair housing law to cover both publicly assisted and privately financed housing and added it to the Commission's jurisdiction.

1965

The Colorado legislature renamed the agency the Colorado Civil Rights Commission.

1969

Sex was added as a protected status under Colorado's fair housing law.

1973

1977

1979

The Colorado Civil Rights Commission passed its first Sunset Review and was placed under the Department of Regulatory Agencies. The legislature also consolidated the state's civil rights laws into a single set of statutes and imposed a time limit (180 days) on the agency's jurisdiction.

1986

The General Assembly amended the state's fair employment statutes to include age (40-69 years) as a protected status.

1989

A second Sunset Review left the Commission and the Division with stronger enforcement authority when legislators amended the statutes as follows:

- Granted the Director subpoena power in the investigation of housing cases,
- granted the Commission power to award back pay in employment cases and actual costs to obtain comparable housing in housing cases,
- added mental disability and marriage to a co-worker as protected classes in employment,
- required complainants to exhaust administrative remedies before filing a civil action in employment cases,'
- made retaliation for testifying in a discrimination case illegal, and
- made mediation mandatory after a finding of probable cause.

1990

Legislators amended Colorado's fair housing statutes to meet the federal requirement for "substantial equivalency," as follows:

- prohibited discrimination based on familial status (families with children under age 18),
- required builders of new multi-family dwellings to meet seven specific accessibility standards,
- required landlords to make "reasonable modifications" for persons with disabilities, including permitting disabled tenants to make structural changes at their own expense,
- gave parties to housing discrimination cases the option of having their case decided in a civil action rather than a hearing before an administrative law judge,
- gave courts or the Commission power to assess fines and award actual and compensatory damages in housing cases,
- gave title companies, attorneys, and title insurance agents power to remove illegal covenants based on race or religion,
- added mental disability as a protected status under Colorado's fair housing law.
- In employment cases, the legislature prohibited any lawful off-premises activity as a condition of employment, with sole recourse through civil suits (dubbed the "smoker's rights" bill).

1991

The legislature gave the Director of the Colorado Civil Rights Division subpoena power in employment cases.

1992

Legislators fine-tuned the State's fair housing law to meet certain federal equivalency requirements as follows:

- prohibited "blockbusting" and discriminating in the terms and conditions of real estate loans, and
- excluded persons currently involved in illegal use of or addiction to a controlled substance from the definition of mental disability.

1993

The time limit for processing charges was extended from 180 days to 270 days, with the provision of a 180-day right-to-sue request.

1999

Colorado Civil Rights Division's third legislative Sunset Review left the agency with two new statutory mandates:

- gave jurisdiction to the agency for workplace harassment cases without economic loss,
- authorized to intervene in intergroup conflicts and offer voluntary dispute resolution services.

2000

The U.S. Courts of Appeals for the 10th Circuit, in *Barzanji v. Sealy Mattress Co.*, issued an opinion in a case initially filed with the Division. The opinion placed additional limitations on the concept of "continuing violations" and reaffirmed that the date of notification of adverse employment action is the correct date of record for purposes of measuring jurisdictional filing deadlines.

2007

The legislature added sexual orientation, including transgender status, as a protected class in employment cases.

2008

The legislature added sexual orientation, including transgender status, as a protected class in housing and public accommodation cases but excluded churches and other religious organizations from jurisdiction under the public accommodation statute.

2009

The Colorado Civil Rights Division's fourth legislative Sunset Review left the agency in place with three new statutory mandates:

- gave jurisdiction to the agency for claims involving terms and conditions of employment;
- allowed the Civil Rights Commission to initiate complaints; and
- extended the Division's subpoena authority.

2013

The state legislature passed the *Colorado Job Protection and Civil Rights Enforcement Act of 2013*, which the Governor signed on May 6, 2013. Effective January 1, 2015, the *Act* expands the remedies a plaintiff may claim in a lawsuit in which intentional employment discrimination is proven to include attorneys' fees, compensatory and punitive damages, and front pay. Additionally, effective January 1, 2015, the *Act* permits age claims to be made by employees whose age is 40 years and over, with no ceiling as to the maximum age an individual may be to bring a claim of age discrimination.

2016

The state legislature passed the *Pregnancy Workers Fairness Act of 2016*, signed by the Governor on June 1, 2016, and went into effect on August 10, 2016. This Act requires employers to provide reasonable accommodations to pregnant workers and applicants, as well as conditions related to pregnancy, such as recovery from childbirth. If an employee/applicant requests an accommodation related to pregnancy/childbirth, the employer must engage in an interactive process with the employee/applicant and provide reasonable accommodations to perform the essential functions of the position unless the accommodation would pose an undue hardship on the employer's business.

2018

The Colorado Civil Rights Division's fifth legislative Sunset Review left the agency in place with three new statutory mandates:

- Modified Commission membership to include three business representatives, three members representing Colorado workers, and one at-large member.
- Required the state auditor to complete a performance audit of the division and commission by December 15, 2019, and by December 15, 2024, and to present the audit reports and recommendations to the legislative audit committee.
- Allowed Senate rejection of Commission appointments.

2019

The Colorado General Assembly passed SB19-085, the "Equal Pay For Equal Work Act." The act removes the authority of the director of the Division of Labor Standards and Statistics in the Department of Labor and Employment (director) to enforce wage discrimination complaints based on an employee's sex. Instead, it authorizes the director to create and administer a process to accept and mediate complaints of, and provide legal resources concerning, alleged violations and to promulgate rules for this purpose. An aggrieved person may bring a civil action in district court to pursue remedies specified in the act. The act does not amend the Colorado Anti-Discrimination Act but draws attention to wage discrimination based on sex and allows a remedy outside of the CCRD to address such complaints.

The Colorado House and Senate each pass resolutions designating April 2, 2019, as "Equal Pay Day" in Colorado and, in connection in addition to that, acknowledge the persistent problem of wage disparity.

2020

The Colorado General Assembly passes the "*Creating a Respectful and Open World for Natural Hair Act of 2020*", also known as the "CROWN Act of 2020." The CROWN Act amended the Colorado Anti-Discrimination Act ("CADA"), among other statutes, to address discrimination based on natural hair or hairstyles commonly or historically associated with race. Governor Polis signed the bill into law on March 6, 2020, and the CROWN Act was enacted on September 13, 2020.

The Colorado General Assembly passed "*An Act concerning the prohibitions on discrimination in housing based on source of income.*" This act was amended and added to CADA to recognize "source of income" as a protected class in housing. This means that covered housing providers cannot discriminate against a potential tenant based on his or her "source of income," which is defined as "income derived from any lawful profession or occupation; and income or rental payments derived from any government or private assistance, grant, or loan program." The act amended CADA at C.R.S. 24-34-501 (4) and (4.5). The source of income protection in housing became effective January 1, 2021.

